

TOWN COUNCIL MINUTES

APRIL 4, 2011

The regularly scheduled meeting of the Hampden Town Council was held on Monday, April 4, 2011. The meeting was held at the municipal building council chambers and was called to order by Mayor Hughes at 7:00 p.m.

Attendance: Councilors: Mayor Janet Hughes, Thomas Brann, Jean Lawlis, William Shakespeare and Kristen Hornbrook; Andre Cushing was absent

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: None

Former Mayor Matt Arnett; citizens

The first order of business was a special presentation in recognition of former Mayor Matt Arnett for his many years of service to the Town. Mayor Hughes presented him with an engraved clock and Manager Lessard read a poem she had written about his service as Town Councilor and Mayor. Matt made a few remarks and then cake was enjoyed by all.

A. CONSENT AGENDA

Mayor Hughes requested that all items under Communications be set aside. Motion by Councilor Brann, seconded by Councilor Shakespeare to accept the balance of the consent agenda - Unanimous vote in favor.

A.3.a. KYMPTON LOVLEY – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.b. JEREMY WILLIAMS – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.c. ROBERT DUNTON – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.d. GEORGE MILLER, III – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.e. GREG MILLER – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

Mayor Hughes noted that these applications have been referred to the Planning & Development Committee, which will be making a recommendation to the Council as to the composition and procedure for selection of that committee.

A.3.f. BANGOR WATER DISTRICT/TOWN – PROPOSED RATE ADJUSTMENT

Mayor Hughes noted that the Bangor Water District has notified us that the rate paid by the Hampden Water District to the Bangor Water District will be increased by 11%. She asked if there would be a rate increase request by Hampden Water District. Manager Lessard said not at this time; this was discussed at the last meeting of the Council and Water District Trustees and the Water District had indicated that they were trying their best to hold off on another rate increase until 2012.

Motion by Councilor Brann, seconded by Councilor Shakespeare to accept all items that had been pulled from the Consent Agenda – unanimous vote in favor.

B. PUBLIC COMMENTS

Darrell Sproul of 321 Papermill Road informed everyone that he has turned in his nomination papers to run for Council. He said as he circulated his papers he talked to people about going on the new Comprehensive Planning Committee. He said he has sent people in to get their application and they have been turned down and told that the Council has not made up their mind on how they are going to set up this committee. He said he did not want to mention any names publicly, but he would like to know what is going on.

Manager Lessard responded that she was at a loss because the applications are available right in the lobby for anyone who wants to fill one out and turn it in. The application is also available on the website. She asked Mr. Sproul if he could let her know later who it was and who they spoke with in the Town Office.

Shelley Blosser of 344 Main Road South asked Mayor Hughes if there is a Code of Ethics for Town Councilors and does it include returning email? She said she knows that Mike Levesque has sent emails that have not been returned. She said she had a question two weeks ago for the Council about what would happen if a Comprehensive Plan was allowed to lapse and pass the 12-year timeline recommended by the State. She said she got conflicting responses from the Council and she emailed Councilor Brann and received no response. She had asked for a copy of the letter that he mentioned would lead to legal ramifications if the Comp Plan was not revised within twelve years. Mayor Hughes responded that it used to be that email was an informal means of communication but today it has become more prevalent and more formal. In the past the Council hasn't responded to questions independently; it responds to questions as a Council and in order to do that issues are discussed during the Council meetings. She noted that the Code of Ethics is on the agenda this evening and that Attorney Russell has responded to the question about the Comp Plan in a letter dated today and he will discuss that during Councilor Comments at the end of the agenda this evening. Ms. Blosser felt that it would be a matter of professional courtesy to return an email and said it is an important step in trying to build bridges and mend some of the trust issues and bad feelings. Mayor Hughes said that now that there is more correspondence by email, the Council does need to make a decision about where those

emails go from a Council level because Council members should not be responding independently without majority Council support.

Jeremy Williams of 1334 Carmel Road North added that we should not go down the road where residents have to make requests under the Freedom of Information Act. He said things are complicated enough right now and suggested taking a step back and throw in some common sense, courtesies and respect and build from that going forward. He said this doesn't have to be a big formal process and suggested considering a timeline for responding to email.

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. APPLICATION FOR RENEWAL OF VICTUALER'S LICENSE RECEIVED FROM COFFEE BREAK CAFÉ AT 75 MAIN ROAD NORTH

Mayor Hughes explained the procedure for the public hearing and then opened the hearing. No one spoke in favor or opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Shakespeare, seconded by Councilor Brann to renew the victualer's license for Coffee Break Café – unanimous vote in favor.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

a. TOWN COUNCIL RULES & CODE OF ETHICS

Mayor Hughes requested that this item be placed on the agenda because she thought it was a good time to review and update the Town Council Rules in order to ensure consistency. She asked the Council for comments only at this time and then at a later meeting, the Council as a whole will address those specific comments and concerns. There was considerable discussion about the Rules, particularly Rules #8, #9 and #10. It was suggested that a definitions section be added, which would include reasons for a Councilor to abstain from voting.

Rule #11 needs to be amended to reflect the restructuring of Council Committees that took place in 2009.

It was also suggested that sections be added to address the following issues:

- Under what conditions would a Councilor be granted an excused absence
- Requirements for a quorum for Council Committee meetings
- Identify when items must be or should be forwarded to the Planning Board

- New Councilor training/mentoring
- Council's use of email, use of public assets, and policies for communications and correspondence

Motion by Councilor Shakespeare, seconded by Councilor Lawlis to postpone discussion of the Code of Ethics until the next meeting – unanimous vote in favor.

4. NEW BUSINESS

a. 2011 ALEWIFE FISHING RIGHTS

Manager Lessard explained that in order for the Town to retain the ability to manage the alewife fishery on the Souadabscook Stream, it is necessary to preserve the rights and adopt a fishing plan prior to April 20th. The Department of Marine Resources' has a Model Alewife Ordinance which the Town has traditionally adopted as its fishing plan.

Following discussion about whether this should be approved as an ordinance, which would require notice and public hearing, Attorney Russell advised omitting the word ordinance and to call it the Model Alewife Regulations. Councilor Lawlis moved and Councilor Brann seconded to preserve alewife fishing rights and continue the alewife fishing plan according to the 2011 Model Alewife regulations – vote on the motion was 4-1 (Hornbrook); motion carried.

D. COMMITTEE REPORTS

Infrastructure – Councilor Shakespeare reported that the committee did not meet last month.

Services – Councilor Lawlis reported that the next meeting will be at 6:00 pm on Monday, April 11th.

Communications – Councilor Hornbrook reported that the next meeting is scheduled for April 21st, but one member is unavailable so it may need to be rescheduled.

Planning & Development – Councilor Brann reported that the next meeting is at 6:00 on Wednesday, April 6th.

Finance – Manager Lessard reported that the Committee met earlier and reviewed the Treasurer's warrants and heard a presentation from Josh Faulkingham regarding the alewife fishery. There was a request for the Town's auditor to do a presentation to the Finance Committee on the 2010 audit, which is tentatively scheduled for May 2nd.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

HAMPDEN TOWN COUNCIL RULES

1. The Town Council shall act only by ordinance order or resolve. All ordinances, orders and resolves shall be confined to one subject, which shall be clearly expressed in the title. All orders and resolves shall be dated, numbered and signed by the Town Clerk and all Councilors will receive a copy.
2. In all motions of command, the form of expression shall be "ordered" and in all motions concerning principles, facts, or purposes, the form shall be "resolved".
3. The name of the council member or other person, persons or group requesting an item on the agenda will be indicated on the agenda with the said item.
4. The Mayor shall take the chair at the appointed time for the meeting, call the members to order and proceed to the following order of business: *(amended 11/17/08)*
 - A. CONSENT AGENDA
 1. Signatures - Treasurer's Warrants, etc.
 2. Secretary's Report
 3. Treasurer's Report
 4. Communications
 5. Reports
 - B. PUBLIC COMMENTS
 - C. POLICY AGENDA
 1. Public Hearings
 2. Nominations - Appointments - Elections
 3. Unfinished Business
 4. New Business
 - D. COMMITTEE REPORTS
 - E. MANAGER'S REPORT
 - F. COUNCILORS COMMENTS
 - G. ADJOURNMENT
5. When a question is under debate, the Mayor shall receive no motion but to adjourn, or for the previous question, or to lay on the table, or to postpone to a day certain, or to refer to a committee or some administrative official or to amend, or to postpone indefinitely; which several motions shall have precedence in order in which they stand arranged.
6. When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion or reconsideration is decided, that vote shall not be reconsidered.
7. When any member is about to speak, they shall respectfully address the Mayor, confine themselves to the question under debate, and avoid personalities. No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

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8. Every member present, when a question is put, shall give their vote, unless the council, for special reasons, shall excuse them. Application to be so excused must be made before debate on the issue and the decision on the application shall be made by a majority vote of the council, without debate.
9. The rules cannot be dispensed with or suspended if one or more members of the council shall object. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.
10. Any person wishing to address the Town Council will be given an opportunity to do so in accordance with the following procedure:
 - a) Persons wishing to address the council on an item which appears on the agenda shall wait until the Mayor announces the consideration of such item, at which time they may address the council on that particular item. However, once the council has begun its deliberations on an item, no person shall be permitted to address the council on such item.
 - b) Any person wishing to address the council on an item not appearing on the agenda shall be allowed to do so only in that section of the agenda referred to as "PUBLIC COMMENTS".
 - c) Any person wishing to address the council shall signify their desire by raising their hand and, when recognized by the Mayor, such person shall thereupon request permission to address the council, giving their name and address then designating the subject matter on which they desire to address the council.
11. At the commencement of the municipal year, or as soon thereafter as possible, there shall be chosen the following committees, each committee to consist of three (3) members of the council as the Mayor may designate or, upon a motion, the council may ballot.
 - a) Appointments Committee;
It shall be the purpose of the Appointments Committee to seek out individuals within the community to best serve in various positions on town boards and committees.
 - b) Charter and Ordinance Committee;
It shall be the purpose of the Charter and Ordinance Committee to assist with revisions and amendments to the town charter and various town ordinances so as to enable the town to reflect reasonable and consistent regulations.
 - c) Community Services Committee;
It shall be the purpose of the Community Services Committee to advise on matters of community recreation and development, parks and reserves,

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sports grounds, public halls, libraries, walkways, camping grounds, community and cultural facilities, and property management.

- d) Economic Development Committee;
It shall be the purpose of the Economic Development Committee to assist the community in becoming more "user friendly" for new and existing business, and to encourage ideas and support for a proactive economic development base.
 - e) Finance Committee;
It shall be the purpose of the Finance Committee to oversee treasurer's warrants for daily expenditures, to facilitate resolution of financial issues as they arise within the community such as debt obligations, major investments, etc.
 - f) Public Safety Committee;
It shall be the purpose of the Public Safety Committee to assist the public safety director with the emergency departments of police, fire and ambulance in the director's efforts to provide top quality emergency service to the entire community.
 - g) Public Works & Solid Waste Committee;
It shall be the purpose of the Public Works & Solid Waste Committee to advise on matters related to flood control, streets, sidewalks, lanes, bridges, drainage sewers, sewage disposal, water services, traffic safety, transportation, public transit, garbage collection and disposal, town cleanliness, pest and insect control; and also to provide input and research, on various environmental and solid waste issues including, but not limited to, recycling, demolition debris disposal and disposal fees.
 - h) Communications Committee;
It shall be the purpose of the Communications Committee to advise and assist the Town Manager, or town staff person whom he/she may designate on matters of communication related to citizen services including but not limited to the town newsletter, the town website, the town cable channels, and town sponsored communication activities. (2/19/08)
12. The Mayor of the council may appoint members of the council and/or citizens of the town to special committees as authorized by the council. No committee shall have the power of executive action unless specifically authorized and shall report back to the council for action on its recommendations or proposals.
13. In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Roberts' Rules of Order" shall be taken as authority to decide the course of proceedings.

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14. The first and third Mondays of each month are designated as regular council meetings with the provision that a unanimous vote of the council would cancel a meeting. Whenever a regular meeting falls on a legal holiday, such meeting will take place on the following day.
15. Any item on the consent agenda can be set aside for discussion at the request of any member, prior to a motion on the remainder of the consent agenda.
16. Councilors Comments - This section is reserved for the purpose of enabling any council member to discuss matters not previously mentioned on the agenda. No official council action can be taken at this time.

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Town Council Committees

- To buy time by a show of concern for the issue when the answer to a problem is not readily known.
- To bring together viewpoints which might not otherwise be heard.
- To serve as a forum for community discussion by concentrating on a single major subject area the advisory committee can go into a greater depth than the town council).
- To serve as a sounding board for various strategies.
- To serve as a buffer between the public and the full town council, allowing time for some of the heat to die down before the council deals with an issue.
- Can serve as a creative source of ideas for the policy makers
- May involve additional citizens because of special interest or expertise.
- No committee shall have the power of executive action unless specifically authorized and shall report back to the full council for action on its (the committee's) recommendations or proposals.
- Town council committees provide a real resource to the full council by dedicating the additional time for research, discussion, debate, and citizen input on a particular issue.
- The council committee may gather additional facts in order to make an informed recommendation back to council body.

Amended by Hampden Town Council: January 18, 2005
 February 19, 2008
 November 17, 2008

MODEL ALEWIFE ORDINANCE**TOWN OF HAMPDEN
ALEWIFE ORDINANCE – 2011**

Regulations for the taking of alewives shall be as follows:

- A minimum unobstructed opening of two feet (2') shall be maintained at all times between the riverbank and the downstream end of the weir.
- The maximum mesh size of the wire, twine, or other material used in the weir shall not exceed one inch by one inch (1" x 1").
- There shall be a 72-hour weekly closed season on alewives from sunrise each Thursday morning until sunrise the following Sunday morning. During the closed season, a minimum size unobstructed opening of three feet by three feet (3' x 3') shall be maintained in the upstream and downstream end of the trap to allow escapement of spawning alewives and other migratory fish.
- Migratory fish such as salmon, shad, or other species except alewives and blueback herring that enter the trap shall be removed and allowed to pass upstream.
- Fishing operations shall cease and all fishing gear obstructing the passage of fish shall be removed from the fishing waters not later than June 5.
- The total landings in pounds or bushels and value of the catch shall be made available to the Maine Department of Marine Resources and/or National Marine Fisheries Service on request by these agencies.

**ADDITIONAL REGULATIONS
FOR STREAMS WITH ATLANTIC SALMON RUNS**

- The entrance to the dipping pen or trap shall be covered by bars, slats, or spacers with a maximum width of two inches (2") between said bars, slats or spacers.
- Dipping of alewives shall be confined to the dipping pen or trap.

Manager's Report
4-4-2011

Government on the Go – The first edition of Government on the Go was sent out on 3/31/11 to the 147 email addresses that have been entered into our email sign up on the website. I am in hopes that the article about it in the soon-to-be-released newsletter will get more people to sign up.

Newsletter – The newsletter should be available online this week and hopefully in mailboxes by Saturday the 9th.

Tax Due Date – Tax due date prior to the start of interest is Wednesday, April 6th. Even though the monster snow storm of this past Friday tried to obliterate the sign – it is once again visible.

Special Election – A reminder that nomination papers are available for the special election to be held on June 14th to replace the Council seat left vacant by the resignation of Matt Arnett. Papers may be obtained from the Town Clerk and require not less than 25 or more than 35 signatures of Hampden registered voters to qualify. The deadline for submitting nomination papers is Thursday, April 14th. Thus far there are three candidates who have taken out and returned papers – Bernard Philbrick, Darrel Sproul, and George Miller.

There was discussion about whether there would be a quorum for the next regular meeting which is scheduled for Tuesday, April 19th due to the Patriot's Day Holiday. Because there wouldn't be a quorum on that date, Councilor Brann moved and Councilor Lawlis seconded to reschedule the next Council meeting from April 19th to April 11th at 7:00 pm. – unanimous vote in favor.

F. COUNCILOR'S COMMENTS

Attorney Russell discussed his legal opinion regarding the expiration of the State Planning Office's certificate of consistency on the 2001 Comprehensive Plan. A copy of his written opinion is attached.

Councilor Lawlis commented that the Tree Board and Town Forester are concerned with managing the trees on public land and the only time they get involved with issues of private property are when there is a hazard to public health. She said there is an intention for the Tree Board to provide input to landscaping requirements in future zoning ordinances. They have an advisory role and if there is some concern about what powers the Tree Board might have in the future, people should consider applying to be part of the Tree Board as it is not operating now because there are not enough members.

Councilor Hornbrook thanked the residents who came out tonight and said she appreciated the Councilors' discussion this evening. She feels this is the start of a good discussion.

Mayor Hughes informed everyone that the Hampden Business Association will meet tomorrow at noon at Anglers Restaurant.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:05 p.m.

A handwritten signature in black ink, reading "Denise Hodsdon". The signature is fluid and cursive, with a long horizontal line extending from the end.

Denise Hodsdon
Town Clerk

FARRELL, ROSENBLATT & RUSSELL
ATTORNEYS AT LAW
61 MAIN STREET
P.O. BOX 738
BANGOR, MAINE 04402-0738

ANGELA M. FARRELL
NATHANIEL M. ROSENBLATT
THOMAS A. RUSSELL
JON A. HADDOW
GREGORY P. DORR
ROGER L. HUBER

TELEPHONE (207) 990-3314
TELECOPIER (207) 941-0239
e-mail: tar@frrlegal.com

MEMORANDUM

Date: April 4, 2011
To: Susan Lessard
From: Tom Russell
Re: Comprehensive Plan Issue

As you know, it is my opinion that the so-called 2001 Comprehensive Plan is currently in effect. According to the March 10, 2011 letter from Phil Carey of the Maine State Planning Office to Dean Bennett, the determination by the State Planning Office that the 2001 Comprehensive Plan was consistent with the procedures, goals and guidelines established in Title 30-A M.R.S., Chapter 187, Subchapter 2 (Growth Management Act) will be valid through December 31, 2012. At the Town Council meeting on March 21st, a citizen asked what the consequences would be if the Town kept the 2001 Plan, and did not pursue adoption of a new Comprehensive Plan.

Although Title 30-A M.R.S. §4326(1) provides that a comprehensive plan must include an inventory and analysis section addressing state goals under the Act, and that the analysis must include "10-year projections of local and regional growth in population and residential, commercial and industrial activity; the projected need for public facilities; and the vulnerability of and potential impacts on natural resources," the Act does provide an express time limit on the duration or validity of a comprehensive plan.

Title 30-A M.R.S. §4347-A(3-A) contains the provisions dealing with the State Planning Office's review of a comprehensive plan, and its determination as to whether the comprehensive plan is consistent with the procedures, goals and guidelines of the Act. By Public Laws of 2007, c. 247, § 5, the Legislature amended Subsection 3-A to add the following paragraph at the end of Subsection 3-A:

A finding by the office pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. A finding by the office issued

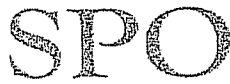
pursuant to this subchapter prior to December 31, 2000 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, 2012. For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.

As you can see, the last sentence of this paragraph provides that for the purposes of §4314(3) [which provides that after January 1, 2003, a municipality's zoning ordinance must be consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines of the Act] and §4352(2) [which provides that a zoning ordinance must be pursuant to and consistent with a comprehensive plan], the expiration of a finding of consistency by the State Planning Office "does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines" established by the Act. Therefore, the expiration of the State Planning Office's finding of consistency as of January 1, 2013 for the 2001 Comprehensive Plan does not automatically make that Plan invalid.

In Mr. Carey's letter, he stated that once the consistency finding for the 2001 Plan expires as of January 1, 2013, "*the legal advantages associated with its State Planning Office's consistency finding will be gone...*" I discussed this matter with Mr. Carey this morning, and he indicated that the "legal advantages" he was referring to included using the consistency finding as part of a defense to any challenge to the 2001 Comprehensive Plan subsequent to December 31, 2012, as well as losing the preferences afforded to a municipality under Title 30-A M.R.S. § 4349-A that has a certified comprehensive plan.

In conclusion, it is my opinion that the 2001 Comprehensive Plan does not automatically become invalid upon the expiration of the State Planning Office's certificate of consistency on December 31, 2012, and that therefore the existing Zoning Ordinance of the Town of Hampden does not become invalid because it is not pursuant to and consistent with a comprehensive plan. Although the Town would not have the advantage of using the certificate of consistency as a defense in a legal challenge to its comprehensive plan, the plan would still benefit from a presumption of validity, and the challenger would have the burden to prove that the 2001 Comprehensive Plan is not consistent with the procedures, goals and guidelines of the Act.

For your information, I have also provided a copy of the State Planning Office's FAQ concerning the December 31, 2012 deadline.



Maine State Planning Office

Executive Department

PAUL R. LEPAGE
Governor

TIM GIDDEN
Acting Director

The 2012 Comprehensive Plan Deadline

Q: I have been told that my comprehensive plan will expire in 2012. Why?

A: A comprehensive plan generally sets out recommendations for ten years into the future. Beyond that period, not just the recommendations but community attitudes and concerns may shift and condition and trends analysis lose relevancy. The original Growth Management Act provided no "expiration date," but the legislature amended it in 2008 to say that the State Planning Office finding that a comprehensive plan is "consistent with the law" will expire after 12 years. For plans adopted prior to 2001, the grace period was extended to December 31, 2012.

Q: Will our plan become invalid if it is no longer consistent?

A: The way the law is written, it is not the plan itself that expires; it is the finding by the State Planning Office that the plan is consistent with the law. A consistency finding which has expired ("expired finding") does not invalidate a locally adopted plan, nor any of the recommendations that the plan carries.

Q: Why should we care if the state no longer finds the plan consistent?

A: The SPO finding of consistency triggers a number of state actions and benefits. Since passage of the Growth Management Act, various state agencies have tied their growth-related programs to it. The most well-known is the CDBG program, which will not award grant funding for growth-related capital investments to a town without a consistent plan. Other grant programs award point priorities to towns with consistent plans. Some state agencies, such as the MaineDOT, give priority in funding their own projects to towns with consistent plans.

Q: What about our zoning ordinance? I understand a zoning ordinance must be based on a consistent plan.

A: The law says that zoning ordinances (as defined), impact fees and rate-of-growth ordinances (building permit caps) must conform to a plan which meets the requirements of the Growth Management Act (Refer to 30A M.R.S.A. §4314 (3)). An expired finding does not invalidate these ordinances. It does, however, provide an opening for a party affected by the ordinance to challenge it in court. Consultation with legal counsel is recommended.

Q: Can't the SPO just "re-affirm" our old plan?

A: No. Should a community choose to submit a plan to the SPO, it would have to be reviewed for completeness with the current standards. Among other things, data has to be refreshed, conclusions based on that data re-examined, and implementation strategies brought up to date. SPO makes updated data for plans available to communities to insure the use of current data available from State agencies. If the plan meets the threshold of the review standards it is accepted for consistency review. Until a plan is reviewed for consistency, its status would remain "unknown" in SPO records.

Q: What about plans that have been fixed after a SPO finding of inconsistency? Can these still be found consistent?

A: There is some latitude depending on the nature of what's 'fixed' to respond to a finding of inconsistency on a plan prepared under the old rule (Chapter 202). Issues identified in a finding or inconsistency must be addressed within two years of the date of the finding. After that period of time, the plan must be resubmitted to SPO under the new rule.